

## **REMARKS**

Claims 1-34 remain in connection with the present application.

### **Claim Amendments**

Applicants note that claims 1-34 have been amended in an effort to place them in better form for U.S. practice including the removal of European phrases such as “characterized in that” and the removal of reference numerals typically utilized in European practice. Further, the claims have been rewritten to place them in better U.S. form by breaking the claims into a more traditional paragraph format and by using traditional U.S. transition phrases such as “comprising”. Such amendments, in many cases serve to broaden the claims and in other cases are clearly non-narrowing amendments which have not been made for any reason relating to patentability. In addition, the claims have been amended to clarify their distinctions over the prior art, including the reference to Axe et al., as will be explained as follows.

### **Preferred Embodiment of the Present Application**

The present application, in a preferred embodiment, is directed to a procedure and apparatus for controlling a respirator device. The device, as shown throughout the figures and various exemplary embodiments in the present application for example, measures at least two respirator parameters such as, for example, respirator flow and respirator pressure. With regard to these at least two parameters, pattern recognition techniques are carried out by evaluating a time line evolution of the at least two respirator parameters and modifying the parameters as a function of pattern recognition. Thereby, the respirator devices can be controlled in an adaptive manner such that the time line evolution of the at least two respirator patterns maintain, at most, predefined maximum difference from a standard reference pattern. As such, an adequate amount

of air can be introduced when necessary, but an undue amount of air need not be forced through the device, when not needed. Such a procedure preferably occurs during the implementation of a CPAP respirator treatment.

**Restriction Requirement**

The Examiner has issued a Restriction Requirement, restricting Applicants to elect the invention including claims 1-16, or the invention including claims 17-34. Applicants confirm their election of Group I, including claims 1-16. At this time, claims 17-34 stand withdrawn from further consideration by the Examiner as being drawn to a non-elected invention, but reconsideration is requested.

**Drawings**

The Examiner has objected to the drawings, alleging that they fail to show element 14 as described in the specification. In response thereto, Applicants have amended "14" to --(P)-- to correspond with drawing figure 2 of the present application. By such an amendment to the specification, Applicants believe that the drawing objection has been overcome. Accordingly, withdrawal of the Examiner's objection is respectfully requested.

**Specification**

The Examiner has objected to the specification, alleging that it makes reference to element 14, which is not shown in the drawings. Accordingly, by amending the specification as indicated above to remove the reference to element 14, the Examiner's objection has been overcome. Accordingly, withdrawal of the Examiner's objection is respectfully requested.

**Rejection Under 35 U.S.C. § 112**

The Examiner has rejected the claims under 35 U.S.C. § 112, second paragraph. In response thereto, Applicants have amended the claims, taking into consideration the suggestions

made by the Examiner, in an effort to place the claims in strict compliance with 35 U.S.C. § 112, second paragraph. Accordingly, withdrawal of the Examiner's rejection is respectfully requested.

**Prior Art Rejections**

The Examiner has rejected claims 1-16 under 35 U.S.C. § 102(a) or (e). This rejection is respectfully traversed.

**Axe et al.**

Axe et al. is directed to a method and apparatus for controlling sleep disorder breathing. Air pressure flow is measured and various sleep interruptions are detected. If detected, pressure is adjusted; and if not detected, pressure is reduced.

**Distinctions From Axe et al.**

Applicants respectfully submit that Axe et al. fails to teach or suggest at least the present invention as claimed in amended independent claim 1. Contrary to that of Axe et al., amended independent claim 1 refers to the capturing of at least two respirator parameters, and not just the parameter of flow as taught or suggested by Axe et al. Further, contrary to just detecting a single pattern, the present invention as set forth in claim 1 is directed to an evaluation which takes into consideration a time wise evolution of a pattern of at least two respirator parameters and analyzes it, at least at intervals, with respect to typical evolution patterns. In Axe et al., no such a time-wise evolution of at least two respirator parameters are analyzed. Finally, in order to maintain adaptive correction of the respirator device, the present invention as claim in claim 1 ensures that the time-wise evolution of the at least two respirator parameters maintain, at most, a predetermined maximum difference from typical evolution patterns. Such a predefined

maximum difference to ensure adaptive correction of the respirator device is not taught or suggested by Axe et al.

Claim 1 of the present application has been amended to clarify distinctions over Axe et al. and as such, is allowable over the prior art of record. Further, although claims 17-34 have been withdrawn from consideration by the Examiner, these claims have also been amended in a manner similar to that of claims 1-16 and also allowable for similar reasons. Thus, rejoinder of claims 17-34 in connection with the present application is earnestly solicited.

### **Conclusion**

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-34 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required \$930.00 extension fee herewith.

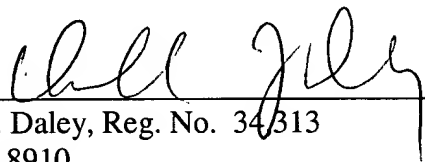
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley, Reg. No. 34,313 at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

  
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